

FOOTNOTES - TABLE 10

- 1/ Tariffs filed for information purposes only.
- 2/ Considering whether to deregulate or streamline regulation.
- 3/ Monopoly markets are regulated.
- 4/ Streamlined certification process.
- 5/ Agency exercises full jurisdiction over wholesale sales of facilities-based cellular service providers and probably has jurisdiction over retail sales of cellular service, but generally forbears from exercising it.
- 6/ Minimum/maximum rate tariffs approved by Commission.
- 7/ All mobile telecom services deregulated effective October 1991.
- 8/ Carriers file general company information only; Commission will continue to observe.
- 9/ Carriers register and file annual reports only.
- 10/ Cellular service offered by a regulated telephone company is scrutinized to ensure no cross-subsidization.
- 11/ Cellular service is deregulated when both wireline and non-wireline carriers operate in a service area.
- 12/ Deregulated early 1992 as fully competitive; UC regulates only terms/conditions of interconnection with LECs. This is on appeal by the State Attorney General.
- 13/ All radio-common carriers deregulated effective 7/1/88.
- 14/ Unless affiliated with wholesale provider.
- 15/ Carrier may request a waiver.
- 16/ PA 179 of 1991, effective 1/1/92, removed cellular from PSC jurisdiction.

A P P E N D I X D

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



October 4, 1994

RECEIVED

VIA FACSIMILE AND FEDERAL EXPRESS

OCT 11 1994

FCC MAIL ROOM

Michael F. Altschul
Vice President, General Counsel
Cellular Telecommunications Industry Ass'n
1250 Connecticut Avenue, NW, Suite 200
Washington, D.C. 20036

Re: September 26 CPUC Data Request to CTIA
PR Docket No. 94-105

Dear Mr. Altschul:

As we discussed in our telephone conversation today, the California Public Utilities Commission ("CPUC") has yet to receive the majority of information requested of the Cellular Telecommunications Industry Association ("CTIA") in a CPUC data request sent to you by facsimile on September 26, 1994. The information requested was either reviewed or relied upon by Professor Jerry Hausman in Appendices 1 through 4 attached to his affidavit in support of CTIA's opposition to the CPUC petition in PR Docket No. 94-105.

On September 29, 1994, you responded by letter to our request, and provided only the information requested in item 3 of our data request.[1] You further indicated that with respect to publicly-available historical pricing information requested in item 1 of our request which was reviewed or relied upon by Professor Hausman, that CTIA is reluctant to provide the information because it was obtained from another consultant. You suggested in your letter that the CPUC contact that consultant directly.

1 Our records indicate that our letter was faxed to you at (202) 785-0721. Although you indicate in your letter that you never received our data request by facsimile on September 26, Brian Roberts of our office talked to you about the request prior to sending it that same day. At that time, after discussing the nature of the data, you indicated that Mr. Roberts should directly contact Mr. Hausman. In addition, on September 26 you left a message with Mr. Roberts with instructions for him to send by facsimile to Mr. Hausman the CPUC data request at the fax number you provided.

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Lastly, you indicated that carrier and market specific price and subscriber data was considered confidential by your members, and, at a minimum, with the agreement of your members, could only be provided under a protective order. Item 5 and that portion of item 6 referred to in item 5 of our data request are the only items which request information which would raise an issue of confidentiality and the need for a protective order. All of the other information in items 1-4, item 7 and most of item 6 of our request is public information for which no lawful claim of confidentiality exists.

In our telephone conversation today, you have changed your position and now indicate that CTIA refuses to produce the data requested in items 5 and part of item 6, even with the full protection of a protective order. Accordingly, CTIA's position is that the CPUC will have no access to this information in this proceeding in order to rebut the claims made by Professor Hausman.

With respect to item 1 of our request, I indicated in our conversation today that it is neither fair nor reasonable to place the burden on the CPUC to attempt to obtain public information provided by others to Professor Hausman and reviewed or relied upon by Professor Hausman in his affidavit. You responded that you would speak with Professor Hausman about providing the data specified. However, you indicated in response to my request, that you would not fix a deadline by which you would let me know whether the CPUC could obtain this data from CTIA, and if so, by when.

To date, over a week has elapsed since the CPUC faxed its data request to CTIA; however, with the exception of information requested in Item 3, we have received none of the other requested information. There is no lawful basis for withholding this information, particularly when this information is essential to enable the CPUC to rebut Mr. Hausman's claims.

Because the CPUC must file its reply to oppositions to its petition by October 18, the CPUC needs a firm commitment by Friday, October 7, 1994 at 5 p.m. EST that CTIA will produce the information requested in the CPUC's September 26 data request for

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receipt by the CPUC no later than Tuesday, October 11, 1994.
Absent your agreement, the CPUC will move to strike Mr. Hausman's
affidavit from this proceeding.

Thank you for your prompt attention to this matter.

Sincerely,


A handwritten signature in cursive script, reading "Ellen S. Levine".

Ellen S. Levine
Principal Counsel

ESL:afm

CERTIFICATE OF SERVICE

I, Ellen S. LeVine, hereby certify that on this 7th day of October, 1994 a true and correct copy of the foregoing MOTION BY CALIFORNIA TO STRIKE AFFIDAVIT AND TESTIMONY OF JERRY A. HAUSMAN APPENDED TO AND DISCUSSED IN THE OPPOSITION OF CTIA was mailed first class, postage prepaid to those parties appearing on the attached service list.



Ellen S. LeVine